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SUBJECT: REACTION TO THE ACCOUNTABILITY AND JUSTICE LAW AND
ASSESSING THE IMPACT

REF: BAGHDAD 85

Classified By: Ambassador Ryan C. Crocker for reasons 1.4 (b) and (d).

11. (S) Summary: Sunni reaction to the January 12 passage of the Accountability and Justice Law, an early indicator of the ultimate political impact, has been somewhat tepid. The Sunni Tawafuq Front issued a statement January 13 calling the law "mediocre" but acknowledging it contains some positive elements. This lukewarm reception stems in part from Vice President Hashimi's belief that CoR Speaker Mashadani violated a promise not to bring the law to a vote until Monday, January 14. As a result, Sunni leaders feel they were deprived of an opportunity to push back against several amendments that they found problematic, but which were endorsed in the January 12 voting. In a January 13 meeting with Hashimi, S/I Satterfield addressed Hashimi's concerns and strongly urged him not to veto the law. IIP bloc leader Dr. Ayyad al-Sammaraie told us on January 14 day that he would advise Hashimi not to veto the law unless he could convince President Talabani and Vice President Abdel Mehdi to join him in doing so; Dr. Ayyad suggested that Mashadani might be able to effect one improvement to the text by deleting a reference to the Iraqi intelligence service before transmitting the law to the Presidency Council. Our assessment of the law's impact on reconciliation is that if implemented in a non-sectarian, non-partisan spirit, Sunni distrust of the Maliki government will be eased and the Iraqi people and neighbors will come to see this as a significant step along the path to national reconciliation. End summary.

Tawafuq: Law is "Mediocre"

12. (C) Sunni reaction to the January 12 passage of the Accountability and Justice Law (i.e., the "de-Ba'ath Law") has been somewhat tepid. On January 13, the Tawafuq Front issued a statement calling the bill a "mediocre" law that contains "lots of holes." Nonetheless, Tawafuq acknowledged that the law contained positive elements and would "alleviate the injustice and inequality of a large segment of Iraqi citizens who were discriminated against without any justification." In conclusion, Tawafuq vowed to try to revisit and remedy the law in order to make it consistent with its original purpose. From the statement, it is not clear whether Sunni efforts to address perceived flaws would include a veto by Vice President Hashimi.

Hashimi Undecided

13. (S) As reported septel, Vice President (and leader of the Iraqi Islamic Party) Tariq al-Hashimi told S/I Satterfield on January 13 that IIP had been caught off guard by the previous day's vote, because CoR Speaker Mashadani had pledged not to bring the law to a vote until Monday, January 14. (Asked why Mashadani held the vote earlier than expected, one IIP leader assessed that Mashadani probably acted without thinking).

Consequently, IIP found itself unexpectedly deprived of the opportunity to push back against several of the amendments introduced by the CoR's Sadrism-led de-Ba'athification Committee. (In point of fact, IIP delivered a non-paper in Arabic to the Embassy outlining its specific concerns about the amendments only an hour before the voting got underway in the CoR.) Hashimi said he was particularly concerned by an amendment to Section 4, Article 12 of the law that deprives the Presidency Council of the right to approve exemptions to the de-Ba'athification law, and instead requires that any exemptions be approved by the CoR, inevitably raising the barrier to waivers. In addition, Hashimi worried that some Sunnis formerly granted exemptions and now serving in Iraq's security and intelligence services would be removed from their posts. S/I Satterfield assured Hashimi that the USG would use all of its influence to prevent sectarian abuse during the law's implementation and to ensure protection of shared interests in safeguarding a continued role for loyal Iraqis in the security and intelligence services. He stressed, however, that the Sunnis had won significant concessions and that while the law might not be perfect from a Sunni perspective, vetoing the finished legislation would be a grave strategic error. Hashimi, however, remained non-committal as to whether he would sign the bill into law once it reaches the Presidency Council.

Sammariaie: No Individual Veto

¶4. (S) In a meeting the next morning (January 14) with IIP party bloc leader Dr. Ayyad al-Sammariaie, Dr. Ayyad said that IIP had still not reached a decision on whether to call for a Presidency Council veto of the law. However, he emphasized that his personal recommendation to Hashimi would be that he

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must not veto the bill alone (and thus bear the blame alone); he should only veto if he gets the concurrence of President Talabani and Vice President Adil Abdel Mehdi, in which case the Presidency Council could jointly reject the amended law on the grounds that it violates the spirit of the August 26th leaders' agreement. Poloffs pushed back, stressing the need to avoid a veto and pointing out that there was no guarantee that the Shi'a and Kurdish blocs would agree to "fix" the law in the event of a veto.

¶5. (S) Sammariaie, who was joined by Rashid al-Azzawi (a Sunni CoR member who sits on the De-Ba'athification Committee) expressed concern that unless revised, the law would lead to the collapse of the Iraqi National Intelligence Service (INIS). According to Sammariaie, most Sunnis employed by INIS were never granted formal exemptions to de-Ba'athification policy, and so would still be vulnerable even if the GOI interpreted the new law as not revoking any formal exemptions previously granted. These employees have been panicking over the past 48 hours, convinced that this is a deliberate Shi'a effort to purge the INIS of Sunnis. Sammariaie emphasized that pursuing formal exemptions for these employees was problematic, since such exemptions would have to be approved by the CoR and the names of those involved would inevitably leak to the public -- thereby putting the Sunni employees and their families at risk.

Clever Solution?

¶6. (S) Sammariaie and al-Azzawi proposed a potentially clever fix: they suggested that Speaker Mashadani exercise his right (under the CoR's bylaws) to make minor tweaks to laws and delete the words "Intelligence Agency" from the definition of security agencies found in Section 1, Article 1, point ten of the law. Mashadani could then transmit the law to the Presidency Council for signature, thereby avoiding the need to re-open the law on the floor of the CoR. Ayyad did not specifically promise that Hashimi would sign the law into effect if this change were made, but seemed confident that

this would suffice to address Hashimi's concerns (and the concerns of the Sunni employees at the INIS).

Additional Sunni Reaction

17. (C) Sammaraie then summed up his opinion of the law, saying: "It represents a midpoint between those who are still seeking revenge against the former regime, and those who are seeking amnesty." That balanced assessment tracks with the Tawafuq statement noted above, and with most other statements by Sunni leaders. In Salah al-Din, for example, Governor Hamood Shekti told the PRT that dissent to the law would eventually subside and, overall, the law would make his job easier. Even firebrand CoR Member Adnan Dulaymi conceded that the legislation included points (such as allowing former Ba'athists to collect pensions) that were "good and acceptable" and represented an improvement over the current system. On the other hand, Salih Mutlaq, who led a walkout during the January 12 voting to hold a press conference absolving himself of any responsibility for the law's passage, blasted the bill as a "law of accountability without justice."

Assessing the Impact

18. (C) On the surface, the reform law will extend eligibility for most government positions for up to 36,000 former Ba'ath party members at the "firqa" level. Essentially, only those at the top three ranks of the former Ba'ath hierarchy will be subject to the fullest restrictions of the law. Those at the four lower ranks, with some exceptions, are not subject to de-Ba'athification. The law affirms the legislators' specific intent, already expressed in the recent pension law, to restore pension rights to former civil servants without regard to party affiliation. There are areas of legal ambiguity, for example with respect to continuity of previously granted exemptions, but on the plus side the reform law provides for a process of legal appeal denied to those subjected to de-Ba'athification in the past.

19. (C) In terms of the core USG objective of using this legislative step to foster conditions for broad political reconciliation, the spirit whereby the law is implemented will have a greater impact than the form and letter of the law. We must continue to press the Maliki government to change the manner in which it has chosen to govern. Sunnis fear that even with achievement of this benchmark on the path to reconciliation, a sectarian government can and will still use de-Ba'athification as a devastating partisan tool. Distrust of the Maliki government will not diminish as a

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result of passage of the de-Ba'ath reform law unless implementation is seen as taking place in accordance with the spirit of the law.
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